

## AMENDMENTS TO CONSTITUTION OF MISSOURI

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ADOPTED AUGUST 3, 2004

### SENATE JOINT RESOLUTION 29 [SJR 29]

**CONSTITUTIONAL AMENDMENT NO. 2** — (Proposed by the Ninety-second General Assembly, Second Regular Session) Shall the Missouri Constitution be amended so that to be valid and recognized in this state, a marriage shall exist only between a man and a woman? The estimated fiscal impact of this proposed measure to state and local governments is \$0.

**JOINT RESOLUTION** Submitting to the qualified voters of Missouri, an amendment to the Constitution of Missouri relating to marriage.

#### SECTION

- A. Enacting clause.
- 33. Marriage, validity and recognition.

*Be it resolved by the Senate, the House of Representatives concurring therein:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2004, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article 1 of the Constitution of the state of Missouri:

**SECTION A. ENACTING CLAUSE.** — Article 1, Constitution of Missouri, is amended by adding thereto one new section, to be known as section 33, to read as follows:

**SECTION 33. MARRIAGE, VALIDITY AND RECOGNITION.** — **That to be valid and recognized in this state, a marriage shall exist only between a man and a woman.**

Adopted August 3, 2004. (For — 1,055,771; Against — 439,529)

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ADOPTED NOVEMBER 2, 2004

**CONSTITUTIONAL AMENDMENT NO. 3.** -- (Proposed by Initiative Petition) Shall the Missouri Constitution be amended to require that all revenues from the existing motor vehicle fuel tax (less collection costs) be used only for state and local highways, roads and bridges, and also require that vehicle taxes and fees paid by highway users be used only for constructing and maintaining the state highway system (less collection costs, refunds and highway patrol law enforcement costs), except that up to half of such vehicle taxes and fees, phased in over four years, will go into a state road bond fund to repay state highway bonds?

The constitutional amendment has a zero net fiscal impact. The amendment increases funding for the Department of Transportation to be used for transportation purposes only and limits the use of highway user fee revenues by other state agencies. The indirect fiscal impact on state and local governments, if any, is unknown.

#### SECTION

- 29. Highways and transportation commission – qualifications of members and employees – authority over state highways and other transportation programs.
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- 30(a). Apportionment of motor vehicle fuel tax – director of revenue responsible for apportionment – limitation on local fuel taxes – fuel taxes not part of total state revenues or expenses of state government, use of moneys.
- 30(b). Source and application of state road fund – sales tax imposed on sale of motor vehicles, apportionment, how, use of revenue – distribution of increases – sales taxes not part of total state revenues or expenses of state government.
- 30(c). Transportation programs and facilities, administration of by commission, use of moneys.
- 30(d). Prohibition against diverting revenue for non-highway purposes – severability of provisions – effective date.

NOTICE: You are advised that the proposed constitutional amendment changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, the following provisions of the Constitution of Missouri -- Section 1 of Article II; Sections 1, 36, 37, 38(a), 39, 40, 51 and 52(a) of Article III; Sections 1, 12, 15, 22, 23, 27, 28 and 34 of Article IV; Section 3(b) of Article IX; Sections 1, 3, 16, 17, 18, 18(e), 19, 20 and 21 of Article X; and Sections 1, 2(a), and 2(b) of Article XII.

#### THE PROPOSED AMENDMENT

*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

Sections 29, 30(a), 30(b) and 30(c) of Article IV of the Constitution are repealed, and the following new sections 29, 30(a), 30(b), 30(c) and 30(d) of Article IV are adopted in lieu thereof:

**Section 29. Highways and transportation commission – qualifications of members and employees – authority over state highways and other transportation programs.** -- The [department of] highways and transportation commission shall be in charge of the department of [a highways and] transportation [commission]. The number, qualifications, compensation and terms of the members of the highways and transportation commission shall be fixed by law, and not more than one-half of its members shall be of the same political party. The selection and removal of all employees shall be without regard to political affiliation. The highways and transportation commission (i) shall have authority over the [all] state highway system; (ii) shall have authority over all other transportation programs and facilities as provided by law, including, but not limited to, [bridges, highways,] aviation, railroads, mass transportation, ports, and waterborne commerce; and (iii) shall have authority to limit access to, from and across state highways and other transportation facilities where the public interests and safety may require. [The present members of the highway commission shall serve as members of the highways and transportation commission for the remainder of the terms for which they were appointed.] All references to the highway commission and the department of highways in this constitution and in the statutes shall mean the highways and transportation commission and the department of [highways and] transportation.

**Section 30(a). Apportionment of motor vehicle fuel tax – director of revenue responsible for apportionment – limitation on local fuel taxes – fuel taxes not part of total state revenues or expenses of state government, use of moneys.** – 1. [On and after the first day of the month next following the adoption of this section, a] A tax upon or measured by fuel used for propelling highway motor vehicles shall be levied and collected as provided by law. Any amount of the tax collected with respect to fuel not used for propelling highway motor vehicles shall be refunded by the state in the manner provided by law. The remaining net proceeds of the tax, after deducting actual costs of collection of the department of revenue (but after June 30, 2005, not more than three percent of the amount collected) [ , apportionment] and [making] refunds for overpayments and erroneous payments of such tax as permitted by law, shall be apportioned and distributed between the counties, cities and the state highways and

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transportation commission as hereinafter provided and shall stand appropriated without legislative action for the following purposes:

(1) Ten percent of the remaining net proceeds shall be deposited in a special trust fund known as the "County Aid Road Trust Fund". In addition, beginning July 1, 1994, an additional five percent of the remaining net proceeds which is derived from the difference between the amount received from a tax rate equal to the tax rate in effect on March 31, 1992, and the tax rate in effect on and after July 1, 1994, shall also be deposited in the county aid road trust fund, and of such moneys generated by this additional five percent, five percent shall be apportioned and distributed [credited] solely to cities not within any county in this state. After such distribution [credit] to cities not within any county, the remaining proceeds in the county aid road trust fund shall be apportioned and distributed [credited] to the various counties of the state on the following basis: One-half on the ratio that the county road mileage of each county bears to the county road mileage of the entire state as determined by the last available report of the state highways and transportation commission and one-half on the ratio that the rural land valuation of each county bears to the rural land valuation of the entire state as determined by the last available report of the state tax commission, except that county road mileage in incorporated villages, towns or cities and the land valuation in incorporated villages, towns or cities shall be excluded in such determination, except that, if the assessed valuation of rural lands in any county is less than five million dollars, the county shall be treated as having an assessed valuation of five million dollars. The funds apportioned and distributed [credited] to each county shall be dedicated, used and expended by the county solely for the construction, reconstruction, maintenance and repairs of roads, bridges and highways, and subject to such other provisions and restrictions as provided by law. The moneys generated by the additional five percent of the remaining net proceeds which is derived from the difference between the amount received from a tax rate equal to the tax rate in effect on March 31, 1992, and the tax rate in effect on and after July 1, 1994, shall not be used or expended for equipment, machinery, salaries, fringe benefits or capital improvements, other than roads and bridges. [In the absence of other controls provided by law, the state highways and transportation commission shall prescribe policy, rules and requirement for the expenditure of these funds by counties, including, among other things, highways and transportation commission approval of plans for projects on which the funds are to be used.] In counties having the township form of county organization, the funds distributed [credited] to such counties shall be expended solely under the control and supervision of the county commission [court], and shall not be expended by the various townships located within such counties. "Rural land" as used in this section shall mean all land located within any county, except land in incorporated villages, towns, or cities.

(2) Fifteen percent of the remaining net proceeds shall be apportioned and distributed [allocated] to the various incorporated cities, towns and villages within the state solely for construction, reconstruction, maintenance, repair, policing, signing, lighting and cleaning roads and streets and for the payment of principal and interest on indebtedness [incurred prior to January 1, 1980,] on account of road and street purposes, and the use thereof being subject to such other provisions and restrictions as provided by law. The amount apportioned and distributed [apportionable] to each city, town or village shall be based on the ratio that the population of the city, town or village bears to the population of all incorporated cities, towns or villages in the state having a like population, as shown by the last federal decennial census, provided that any city, town or village which had a motor fuel tax prior to the adoption of this section shall annually receive not less than an amount equal to the net revenue derived therefrom in the year 1960; and

(3) All the remaining net proceeds in excess of the distributions [allocations] to counties, and to cities, towns and villages under this section shall be apportioned, distributed and deposited in [allocated to] the state road fund and shall be expended [disbursed] and used solely as provided in subsection 1 of section 30[(a) and] (b) of Article IV of this Constitution.

2. The director of revenue of the state shall make the [division and] apportionment, distribution and deposit of the funds monthly in the manner required hereby.

3. Except for taxes or licenses which may be imposed uniformly on all merchants or manufacturers based upon sales, or which uniformly apply ad valorem to the stocks of merchants or manufacturers, no political subdivision in this state shall collect any tax, excise, license or fee upon, measured by or with respect to the importation, receipt, manufacture, storage, transportation, sale or use, on or after the first day of the month next following the adoption of this section of fuel used for propelling motor vehicles, unless the tax, excise, license or fee is approved by a vote of the people of any city, town or village subsequent to the adoption of this section, by a two-thirds majority. All funds collected shall be used solely for construction, reconstruction, maintenance, repair, policing, signing, lighting, and cleaning roads and streets and for the payment and interest on indebtedness incurred [prior to January 1, 1980,] on account of road and street purposes.

4. [Beginning on July 1, 1993,] The [the] net proceeds of fuel taxes apportioned, distributed and deposited [allocated] under this section to the state road fund, counties, [and to] cities, towns and villages shall not be included within the definition of "total state revenues" in section 17 of article X of this constitution nor be considered as an "expense of state government" as that term is used in section 20 of article X of this constitution.

**Section 30(b). Source and application of state road fund – sales tax imposed on sale of motor vehicles, apportionment, how, use of revenue – distribution of increases – sales taxes not part of total state revenues or expenses of state government. – 1.**

For the purpose of constructing and maintaining an adequate system of connected state highways all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting those portions of the sales tax on motor vehicles and trailers which are not distributed to the state road fund pursuant to subsection 2 of this section 30(b) [, except as hereinafter provided,] and further excepting all property taxes), less the [cost] (1) actual cost of collection [thereof] of the department of revenue (but not to exceed three percent of the particular tax or fee collected), (2) actual cost of refunds for overpayments and erroneous payments of such taxes and fees and maintaining [the highway related activities of the highways and transportation commission and department including any workers' compensation and] retirement programs as permitted by law [.] and (3) [and] actual cost of the state highway patrol in administering and enforcing any state motor vehicle laws and traffic regulations[, and less refunds and that portion of the fuel tax revenue to be allocated to counties and to cities, towns and villages under section 30(a) of Article IV of this Constitution], shall be deposited in [credited to] the state road fund which is hereby created within the state treasury and stand appropriated without legislative action to be used and expended by the highways and transportation commission for the following purposes, and no other:

First, to the payment of the principal and interest on any outstanding state road bonds. The term state road bonds in this section 30(b) means any bonds or refunding bonds issued by the highways and transportation commission to finance or refinance the construction or reconstruction of the state highway system.

Second, to maintain a [any] balance in the state road fund in [excess of] the amount deemed necessary to meet the payment of the principal and interest of any state road bonds for the next succeeding twelve months [shall be credited to the state road fund and shall be expended] .

The remaining balance in the state road fund shall be used and expended in the sole discretion of and under the supervision and direction of the highways and transportation commission for the following state highway system uses and purposes and no other:

(1) To complete and widen or otherwise improve and maintain the state highway system [of highways] heretofore designated and laid out under existing laws;

(2) To reimburse the various counties and other political subdivisions of the state, except incorporated cities and towns, for money expended by them in the construction or acquisition of roads and bridges now or hereafter taken over by the highways and transportation commission [state] as permanent parts of the state highway system [of state highways], to the extent of the value to the state of such roads and bridges at the time taken over, not exceeding in any case the amount expended by such counties and subdivisions in the construction or acquisition of such roads and bridges, except that the highways and transportation commission may, in its discretion, repay, or agree to repay, any cash advanced by a county or subdivision to expedite state road construction or improvement;

(3) In the discretion of the commission to plan, locate, relocate, establish, acquire, construct and maintain the following:

(a) interstate and primary highways within the state;

(b) supplementary state highways and bridges in each county of the state [as hereinafter provided];

(c) [(b)] state highways and bridges in, to and through state parks, public areas and reservations, and state institutions now or hereafter established [, and] to connect the same with the state highways, [,] and also national, state or local parkways, travelways, tourways, with coordinated facilities;

(d) [(c)] any tunnel or interstate bridge or part thereof, where necessary to connect the state highways of this state with those of other states;

(e) [(d)] any highway within the state when necessary to comply with any federal law or requirement which is or shall become a condition to the receipt of federal funds;

(f) [(e)] any highway in any city or town which is found necessary as a continuation of any state or federal highway, or any connection therewith, into and through such city or town; and

(g) [(f)] additional state highways, bridges and tunnels, [outside the corporate limits of cities having a population in excess of one hundred fifty thousand,] either in congested traffic areas of the state or where needed to facilitate and expedite the movement of through traffic.

(4) To acquire materials, equipment and buildings and to employ such personnel as necessary for the purposes [herein] described in this subsection 1; and

(5) For such other purposes and contingencies relating and appertaining to the construction and maintenance of such state highway system [highways and bridges] as the highways and transportation commission may deem necessary and proper.

2. (1) The state sales tax upon the sale of motor vehicles, trailers, motorcycles, mopeds and motortricycles at the rate provided by law on November 2, 2004, is levied and imposed by this section until the rate is changed by law or constitutional amendment.

(2) One-half of the proceeds from the state sales tax on all motor vehicles, trailers, motorcycles, mopeds and motortricycles shall be dedicated for highway and transportation use and shall be apportioned and distributed as follows: ten percent to the counties, fifteen percent to the cities, two [one] percent to be deposited in the state transportation fund, which is hereby created within the state treasury to be used in a manner provided by law and seventy-three [seventy-four] percent to be deposited in the state road fund. The amounts apportioned and distributed to the counties and cities shall be further allocated and used as provided in section 30(a) of this article[, to be used for highway and transportation purposes]. The amounts allocated and distributed to the highways and transportation commission for the state road fund shall be used as provided in subsection 1 of this section 30(b). The sales taxes which are apportioned and distributed pursuant to this subdivision (2) shall not include those taxes levied and imposed pursuant to sections 43(a) or 47(a) of this article. The term "proceeds from the state sales tax" as used in this subdivision (2) shall mean and include all revenues received by the department of revenue from the said sales tax, reduced only by refunds for overpayments and erroneous payments of such tax as permitted by law and actual costs of collection by the department of revenue (but not to exceed three percent of the amount collected).

(3) (i) From and after July 1, 2005, through June 30, 2006, twenty-five percent of the remaining one-half of the proceeds of the state sales tax on all motor vehicles, trailers, motorcycles, mopeds and motortricycles which is not distributed by subdivision (2) of subsection 2 of this section 30(b) shall be deposited in the state road bond fund which is hereby created within the state treasury; (ii) from and after July 1, 2006, through June 30, 2007, fifty percent of the aforesaid one-half of the proceeds of the state sales tax on all motor vehicles, trailers, motorcycles, mopeds and motortricycles which is not distributed by subdivision (2) of subsection 2 of this section 30(b) shall be deposited in the state road bond fund; (iii) from and after July 1, 2007, through June 30, 2008, seventy-five percent of the aforesaid one-half of the proceeds of the state sales tax on all motor vehicles, trailers, motorcycles, mopeds and motortricycles which is not distributed by subdivision (2) of subsection 2 of this section 30(b) shall be deposited in the state road bond fund; and (iv) from and after July 1, 2008, one hundred percent of the aforesaid one-half of the proceeds of the state sales tax on all motor vehicles, trailers, motorcycles, mopeds and motortricycles which is not distributed by subdivision (2) of subsection 2 of this section 30(b) shall be deposited in the state road bond fund. Moneys deposited in the state road bond fund are hereby dedicated to and shall only be used to fund the repayment of bonds issued by the highways and transportation commission to fund the construction and reconstruction of the state highway system or to fund refunding bonds, except that after January 1, 2009, that portion of the moneys in the state road bond fund which the commissioner of administration and the highways and transportation commission each certify is not needed to make payments upon said bonds or to maintain an adequate reserve for making future payments upon said bonds may be appropriated to the state road fund. The highways and transportation commission shall have authority to issue state road bonds for the uses set forth in this subdivision (3). The net proceeds received from the issuance of such bonds shall be paid into the state road fund and shall only be used to fund construction or reconstruction of specific projects for parts of the state highway system as determined by the highways and transportation commission. The moneys deposited in the state road bond fund shall only be withdrawn by appropriation pursuant to this constitution. No obligation for the payment of moneys so appropriated shall be paid unless the commissioner of administration certifies it for payment and further certifies that the expenditure is for a use which is specifically authorized by the provisions of this subdivision (3). The proceeds of the sales tax which are subject to allocation and deposit into the state road bond fund pursuant to this subdivision (3) shall not include the proceeds of the sales tax levied and imposed pursuant to sections 43(a) or 47(a) of this article nor shall they include the proceeds of that portion of the sales tax apportioned, distributed and dedicated to the school district trust fund on November 2, 2004. The term "proceeds from the state sales tax" as used in this subdivision (3) shall mean and include all revenues received by the department of revenue from the said sales tax, reduced only by refunds for overpayments and erroneous payments of such tax as permitted by law and actual costs of collection by the department of revenue (but not to exceed three percent of the amount collected).

3. After January 1, 1980, [Notwithstanding the provisions of subsection 1 of this section] any increase in state license fees and taxes on motor vehicles, trailers, motorcycles, mopeds and motortricycles other than those taxes distributed pursuant to subsection 2 of this section 30(b) [over and above those in effect upon adoption of this section] shall be distributed as follows: ten percent to the counties, fifteen percent to the cities and seventy-five percent to be deposited in the state road fund. The amounts distributed shall be apportioned and distributed [allocated] to the counties and cities as provided in section 30(a) of this article, to be used for highway [and transportation] purposes.

4. The moneys apportioned or distributed under this section to the state road fund, the state transportation fund, the state road bond fund, counties, cities, towns or villages shall not be included within the definition of "total state revenues" as that term is used in section 17 of Article X of this constitution nor be considered as an "expense of state government" as that term is used in section 20 of article X of this constitution.

**Section 30(c). Transportation programs and facilities, administration of by commission, use of moneys.** – The highways and transportation commission shall have authority to plan, locate, relocate, establish, acquire, construct, maintain, control, and as provided by law to operate, develop and [or] fund public transportation facilities as part of any state transportation system or program such as but not limited to aviation, mass transportation, transportation of elderly and handicapped, railroads, ports, [and] waterborne commerce and intermodal connections, provided that funds other than those designated or dedicated for highway purposes in or deposited in the state road fund or the state road bond fund pursuant to sections 30(a) or 30(b) of this constitution are made available for such purposes. No moneys which are distributed to the state transportation fund pursuant to section 30(b) shall be used for any purpose other than for transportation purposes as provided in this section .

**Section 30(d). Prohibition against diverting revenue for non-highway purposes – severability of provisions – effective date.** – 1. No state revenues derived from highway users which are to be allocated, distributed or deposited in the state road fund pursuant to either section 30(a) or section 30(b) shall be diverted from the highway purposes and uses specified in subsection 1 of section 30(b). No state revenues derived from highway users which are to be allocated, distributed or deposited in the state road bond fund pursuant to subdivision (3) of subsection 2 of section 30(b) shall be diverted from the highway purposes and uses specified in said subdivision (3).

2. All of the provisions of sections 29, 30(a), 30(b), 30(c) and 30(d) shall be self executing. All of the provisions of sections 29, 30(a), 30(b), 30(c) and 30(d) are severable. If any provision of sections 29, 30(a), 30(b), 30(c) and (30(d) is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of these sections shall be and remain valid.

3. The provisions of sections 29, 30(a), 30(b), 30(c) and 30(d) shall become effective on July 1, 2005.

Adopted November 2, 2004. (For – 1,966,617; Against – 526,872)

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